



SCOTTISH POLICE FEDERATION

Established by Act of Parliament

# Legal Advice & Assistance Guidance

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## Principles of SPF Legal Advice & Assistance

The provision of legal advice and assistance to members, their dependants and ex-members is one of the most important functions of the Scottish Police Federation (SPF). Such advice and assistance is paid for by members' subscriptions. It is impossible, in either SPF Rules or this document, to describe every set of circumstances where legal advice and assistance may be granted.

Legal advice and assistance provided from SPF Funds is determined in terms of Rule 15 of the Police Federation (Scotland) Rules 2013. Further details are available at [www.spf.org.uk](http://www.spf.org.uk) Legislation debars the JCC from using its funds in connection with individual cases of promotion or appraisal or for purely operational matters.

### Legal Advice

Initial legal advice on any matter can be obtained on the Legal Helpline on 0344 893 0786. While the Legal Advice & Assistance Scheme may not cover anything beyond that initial call, our solicitors will offer or can arrange cover on any matter at reduced prices to the member. Legal 'advice' becomes 'assistance' where a cost is incurred by the SPF.

This service is available on the Helpline 8.30am – 4.30pm Monday to Thursday, and 8.30 am – 3.30 pm Friday, including public holidays except during Christmas and New Year. Should any calls be received out with these times, a voicemail can be left and a return call made within operating hours.

In the event of urgent legal assistance dial the SPF Helpline Tel 0344 893 0786 and you will be directed to the out of hours emergency service. Custody staff also have a direct number.

### Legal Assistance

Where the Legal Advice & Assistance Scheme does cover the issue actions shall be undertaken in accordance with the agreements between the SPF and its solicitors. See 'Making an Application for Legal Advice and Assistance' on page 09.

### Legal Advice & Assistance provided by the Scottish Police Authority

Officers charged with a crime or offence allegedly committed while on duty may receive funding for legal advice & assistance from the Scottish Police Authority. Requests for such funding are directed through the Assistant Chief Constable with delegated authority and further information can be obtained from the legal department at [legal@spf.org.uk](mailto:legal@spf.org.uk)

## Recoverable Costs

In the vast majority of legal cases there will be no charge to the individual concerned. In all instances where cases are unsuccessful there will be no charge to the individual. Where a final award is over £10,000 a sum of 10% of the award or the cost of the related legal expenses, whichever is the lesser, shall be recoverable by the JCC.

## Who Is Covered?

Legal advice and assistance is available to contributing members to the SPF Voluntary Fund and, in certain limited circumstances, to immediate family, civil partners, widows, widowers, dependents and ex-members.

Coverage for certain issues is subject to particular exclusions, both in relation to events and the categories of persons eligible to benefit from such coverage. Such exclusions are detailed and highlighted within this document.

Special Constables are covered for matters arising whilst carrying out the duties of a police officer only. In other exceptional circumstances, the JCC may, at its absolute discretion, extend cover to include other matters.

The JCC and its officers have absolute discretion on who is covered and the extent of that cover in terms of Rules 14.2, 15.1 and 15.2 of the Police Federation (Scotland) Rules 2013.

## What is Covered?

The JCC has absolute discretion on the extent of any legal advice and assistance provided. (see section below). This list is not exhaustive but subject to conditions covered elsewhere in this document and on solicitors' advice on prospects of success, potential benefits to the member(s), and potential costs.

Matters covered in the Legal Advice & Assistance Scheme include:

### 1. Legal Advice and Assistance

Legal Advice and Assistance including court action in connection with testing of decisions affecting all ranks, or which affect only one rank and which are against SPF policy or matters of general principle.

### 2. Criminal Legal Defence

Criminal Legal Defence – member only – The provision of legal advice prior to, and representation during, an interview under caution where it is alleged the individual may have committed a criminal offence.

The defence of legal proceedings brought against an individual in a court of criminal jurisdiction as a result of any act or omission or alleged act or omission. The JCC has absolute discretion on the extent of any legal advice and assistance provided.

### 3. Civil Legal Defence

Civil Legal Defence - member only - Legal Expenses incurred in the defence of legal proceedings brought against an individual in a Civil Action as a result of any act or omission or alleged act or omission – excludes parking or motor vehicle obstruction offences.

### 4. Misconduct & Performance Proceedings

Misconduct & Performance Proceedings – member only - The provision of legal advice and assistance in relation to any misconduct or performance proceedings in terms of the Police Conduct & Performance Regulations brought against an individual.

### 5. Fatal Accident or Public Inquiry

Fatal Accident or Public Enquiry – member only. Representation at a Fatal Accident Inquiry or Public Inquiry into an incident which arises from the individual undertaking their duties as a Police Officer and relates to:

- (a) death of the individual or
- (b) death of a person held in custody by, or in care of, the individual.

## 6. Employment Disputes (Police Officers)

Employment Disputes – member only.

The JCC may provide legal advice or assistance in connection with employment disputes relating to police officers, which may include representation at an Employment Tribunal. However, issues relating to individual cases of promotion or appraisal or purely operational matters will not be funded.

Before making an application for such advice or assistance, the officer should discuss with their Area Committee Secretary whether all relevant Force procedures such as Grievance Procedures have been exhausted and whether assistance could be obtained from the Scottish Police Authority.

Where representation at tribunals has been approved by the JCC such representation may be provided by either a SPF representative or a solicitor. Such representation will be dependent on the circumstances of the case and any decision in regards thereto will be at the absolute discretion of the JCC.

## 7. Personal Injury

Personal Injury – Legal Expenses incurred in the pursuit of Legal Proceedings to recover damages or compensation following any event causing death of or bodily injury to an individual, this includes medical negligence. The DGS will not accept claims submitted over 2.5 years from the event or within 6 months from time bar.

## 8. Criminal Injuries Compensation Authority

Criminal Injuries Compensation Authority – legal advice and assistance on behalf of members who have sustained personal injury on duty or the immediate family or civil partner or personal representatives of members who have been killed or rendered incapacitated on duty. Any legal advice or assistance considered appropriate in regard to any application or appeal will be at the JCC's absolute discretion.

1. Providing advice and assistance to a member in relation to their attendance at a hearing or tribunal.
2. Providing advice and assistance to members, their widows or widowers or civil partners and dependants in pensions or medical appeals.

## 9. . Property Protection

Property Protection – amount involved must be over £5000 and relates to damage to member's principal home.

## 10 Contract Disputes

Contract Disputes – amount involved must be over £5000 (in line with small claims procedures).

## 11. Defamation

Defamation – member only – very difficult cases, necessary to prove deliberate maliciousness, must be a quantifiable impact or loss, high costs and minimal damages, ability of culprit to pay. However, the determination of whether such support shall be provided and if so, the extent of such support to be provided will be at the absolute discretion of the JCC.

## What is Not Covered?

Again, this list is not exhaustive but matters which are generally not covered include the following list. Remember, while the Scheme may not cover these matters, our solicitors can give initial advice and can either provide or arrange cover at reduced costs at the members' expense.

Family Law (separation & divorce, child custody, adoption, inheritance disputes etc)

Tax Protection

## SPF Discretion

**The JCC has absolute discretion on the extent of any legal advice and assistance provided.**

In exercising discretion the JCC will take the following factors into account: -

- potential benefit to the member/ex-member.
- potential benefit to the membership as a whole.
- whether any available alternatives have been exhausted.
- likely costs of providing the legal advice and/or assistance.
- prospects of success as per legal advice sought by the JCC.
- the moral and ethical aims and objectives of the organisation and the interests of the SPF as a whole.
- any other relevant matters as determined by the JCC.

The JCC may apply a 'good faith' measure to ensure the good reputation of the SPF and its members. This might be particularly relevant to criminal matters. Good faith will be defined as 'honesty or sincerity of intention'.

The JCC seeks to provide a valuable and responsible legal advice and assistance service to its members, members' dependants and ex- members, where considered appropriate. JCC resources are finite and while every effort will be made to help those in need the JCC have a responsibility to the whole membership to manage the Voluntary Fund on behalf of everyone, both individually and collectively. In some cases, potential legal costs far outweigh any potential benefit either for the SPF or the individual and such cases cannot be supported for the above reasons.

Legal cases are rarely resolved quickly and many run on for a number of years. It is vitally important that individuals receiving legal advice and/or assistance keep in regular contact with their designated SPF representative.

## SPF Solicitors

Solicitors appointed to provide any legal advice and assistance detailed within this guidance to any individual shall be determined by the JCC. Funding for any legal advice & assistance shall only be provided where authority for such funding has been granted by the appropriate JCC official. The JCC and not the member selects the particular solicitor to handle each case



## General Exclusions

The JCC will not provide funding in the following situations (except where the JCC at its absolute discretion determines otherwise.)

### **1. Alternative Funding**

Any application where there is an entitlement to funding from the Police Service of Scotland, the Scottish Legal Aid Board, the Scottish Police Authority (including any insurance policy held by the Scottish Police Authority for the benefit of police officers), an employer or any other source, or where the individual would be entitled to alternative funding if these arrangements were not in place.

### **2. Pre-existing circumstances**

Any incident that could give rise to an application where the individual was aware of the circumstances of the incident prior to the commencement of the individual's entitlement to be covered.

### **3. Late reported applications**

An application where the individual has failed to notify the SPF of the occurrence giving rise to the application within a reasonable time of it happening and where this failure adversely affects the reasonable prospects of success or the JCC considers that its position has been prejudiced.

### **4. Costs not agreed by the JCC**

Costs and expenses incurred before the JCC has provided written confirmation that funding will be provided, unless the JCC has expressly stated (in writing) that the particular costs and expenses will be funded.

### **5. Courts awards and fines**

Fines, penalties, compensation or damages that a court or other authority orders the individual to pay.

## 6. Legal action that the JCC has not agreed

Any legal action taken by an individual that the JCC or its officers have not agreed to, or where the individual does anything that hinders the JCC or its officers in regard to any legal advice and assistance to be provided.

### Appeals

Any appeal in connection with an application should be made to the General Secretary in writing at:

Scottish Police Federation  
PO Box 27163  
Glasgow  
G3 9EZ

### Making an Application for Legal Advice & Assistance

#### Applying for Legal Advice & Assistance

##### **On Duty Matter:**

Contact the appropriate Area Committee Secretary on 0300 303 0027

##### **Off Duty Matter**

Contact **the SPF Legal Helpline on Tel 0344 893 0786**